Pac. 93; and that every fact must be shown in the affidavit which is necessary to give the right to an order for service by publication, *Lbr. Co.* v. *Johnson,* 196 Fed. 56; *Harvey* v. *Harvey,* 85 Kans. 689. Where, however, the attack is collateral, there is considerable conflict of authority as to the validity of the judgment, the weight of authority upholding its validity. *Cooper* v. *Reynolds,* 10 Wall. 308; *Morris* v. *Robbins,* 83 Kans. 335, 111 Pac. 470; contra, *Greenvault* v. *Farmers' & Mechanics' Bank,* 2 Doug. (Mich.) 498; *Gibson* v. *Wagner,* supra. But on direct attack, as in the principal case, even slight variances from the requirements of the statute are held fatal, e. g. use of "residence" in the affidavit where the statute required "post-office address," *Norris* v. *Kelsey,* 23 Colo. 555, 130 Pac. 1088; use of affidavit on information and belief where statute required it be in a direct and positive manner, *Feikert* v. *Wilson,* 38 Minn. 341, 37 N. W. 585. *See San Diego Savings Bank* v. *Goodsall,* 137 Cal. 420, 70 Pac. 300. The court suggests obiter that a distinction, based upon the recitals in the judgment, might be drawn, and defects in the affidavit held not to be jurisdictional in those states where the affidavit is not a necessary part of the record. This distinction is unsupported by the decision cited, *Gilmore* v. *Lampman, supra,* and would appear to be, in cases of direct attack, a too technical attempt to reconcile contrary holdings, though perhaps good in cases of collateral attack. See *Duval* v. *Johnson,* 90 Neb. 503, 133 N. W. 1125, Ann. Cas. (1913B) 26.

LANDLORD AND TENANT—LIABILITY OF LANDLORD FOR INJURY TO THIRD PERSONS.—The defendant leased a hotel fully furnished, lessee agreeing to keep the elevator and other machinery in good order. The elevator was out of repair at the time of the lease. It was without light, and would "creep" when left standing, of which facts both parties had knowledge. Plaintiff was a guest of the lessee, and walked into the elevator shaft one afternoon when the elevator door had been left open and the elevator had crept up ten feet. *Held* that both lessor and lessee were liable for negligence. The lessor of property intended for a public or semi-public use is liable for injuries to third persons if the leased property was not safe for the contemplated use at the time of the lease, or if there is a dangerous condition on the premises in the nature of a nuisance, of which the owner is chargeable with knowledge. *Colorado Mortgage & Investment Co.* v. *Giacomini,* (Colo. 1913) 136 Pac. 1039.

It is a wellnigh universal rule that as between landlord and tenant, in the absence of fraud or concealment, where there is no express warranty or covenant to repair, the lessee is subject to the rule of *caveat emptor.* There is no implied contract that the premises are fit for habitation or free from dangerous defects. *Moore* v. *Parker,* 63 Kan. 52, 64 Pac. 975, 53 L. R. A. 778; *Jaffe* v. *Harteau,* 56 N. Y. 398, 15 Am. Rep. 438; *Cowen* v. *Sutherland,* 145 Mass. 363, 1 Am. St. Rep. 469. Third persons invited by the tenant—employees, members of the family, visitors—are subject to the same rule. It is the lessee's duty to inform them. *Whitmore* v. *Orono Pulp & Paper Co.,* 91 Me. 297, 39 Atl. 1032, 64 Am. St. Rep. 229; *Sterger* v. *Van Sicklen,* 132 N. Y. 499, 30 N. E. 987, 16 L. R. A. 640, 28 Am. St. Rep.

594; *Jordan* v. *Sullivan,* 181 Mass. 348, 63 N. E. 909. Contra, *McConnell* v. *Lemley,* 48 La. Ann. 1433, 20 So. 887, construing a local statute. But where the lessor retains control of the premises or parts thereof used by the several tenants, he is liable to tenants and others impliedly invited for injuries resulting from dangerous conditions in such places of which had or reasonably ought to have had knowledge. *Harrison* v. *Jelly,* 175 Mass. 292, 56 N. E. 283. *Siggins* v. *McGill,* 72 N. J. Law, 263, 62 Atl. 411, 111 Am. St. Rep. 666. There are two cases which are generally regarded as exceptions. Where, as in the principal case, the entire premises are leased for a public or semi-public purpose, as a wharf, public hall, hotel, or amusement place, the lessor is liable for injuries to strangers caused by defects existing at the time of the demise of which he knew or ought to have known. *Swords* v. *Edgar,* 59 N. Y. 28, 17 Am. Rep. 295; *Burner* v. *Higman & Skinner Co.,* 127 Ia. 580, 103 N. W. 802; *State* v. *Boyce,* 73 Md. 469, 21 Atl. 322, excusing lessor for lack of knowledge. Again, where the cause of the injury was a nuisance which was on the property when leased and would be likely to cause injury in the course of ordinary use by the tenant as contemplated by the parties, the lessor is liable. *House* v. *Metcalf,* 27 Conn, 632; *Kalis* v. *Shattuck,* 69 Cal. 593, 58 Am. Rep. 568; *Isham* v. *Broderick,* 89 Minn. 397, 95 N. W. 224. Though in England the landlord is exempted from liability by a covenant by the lessee to repair, as in *Gwinnell* v. *Eamer,* 32 L. T. R. (N. S.) 835, L. R. 10 C. P. 658, he is not so relieved in this country. *Nugent v. B .C. & M. R. Co.,* 80 Me. 62, 12 Atl. 797, 6 Am. St. Rep. 151; *Bailey* v. *Dunaway,* 8 Ga. App. 713, 70 S. E. 141; *Swords* v. *Edgar, supra.* The Tennessee Court repudiates the distinction between public and private uses, and holds the lessor liable in both cases, if he ought to have known of the dangerous condition. *Hines* v. *Willcox,* 96 Tenn. 148, 33 S. W. 914, 34 L. R. A. 824, 54 Am. St. Rep. 823, affirmed in 100 Tenn. 524. See also *Bailey* v. *Kelly,* 86 Kan. 911, 122 Pac. 1027, 39 L. R. A. (N. S.) 378, and *dictum* in *Edwards* v. *N. Y. C. & H. R. Co.,* 98 N. Y. 245, 50 Am. Rep. 659. These cases stand alone, but courts cite them indiscriminately with other cases.

LEGITIMATION—CAN FATHER INHERIT FROM A LEGITIMATED CHILD?—Under a statute providing that; "The father of an illegitimate child, by publicly acknowledging it as his own, and receiving it as such, with the consent of his wife if he is married, into his family, and otherwise treating it as if it were a legitimate child, thereby adopts it as such, and such child is thereupon deemed for all purposes legitimate from the time of its birth * * *." Defendant legitimated a child and claimed the right to inherit from it. *Held,* that the mother inherited all of the child's property, and that where the rights of the mother are involved the child is still illegitimate and a bastard. *Templeman* v. *Bruner,* (Okla. 1914) 138 Pac. 152.

At common law a bastard's mother did not inherit his property, *Cooley* v. *Dewey,* 4 Pick. 93. And the court in the principal case declared that the mother's right to the child's property was derived from a statute declaring: